

CITY COUNCIL MINUTES
June 27, 2011
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, June 27, 2011 at 6:00 p.m. with Mayor Kirby presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Bridget Powers, Kevin Hanley, J. M. Holmes, Keith Nesbitt, Bill Kirby

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Finance Director Andy Heath, Fire Chief Mark D'Ambrogi, Fire Captain Craig McArdle, Public Works Director Bernie Schroeder, Associate Planner Lance Lowe, Admin. Analyst Megan Siren, Police Chief Valerie Harris and Police Captain John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Nesbitt/ Powers/ Unanimously Approved by Voice

(1) **CONFERENCE WITH LABOR NEGOTIATORS**
G.C. 54957.6

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: All Bargaining Units

REPORT OUT OF CLOSED SESSION

No reportable action.

PLEDGE OF ALLEGIANCE

**MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/
ANNOUNCEMENTS**

Proclamation for "Think Auburn First" Week
Commendation for Police Chief Valerie Harris

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

1. Appointment of Arts Commissioner

By **RESOLUTION 11-67** make the recommended appointment to the Auburn Arts Commission.

2. Approval of Warrants Paid – May 2011

By **RESOLUTION 11-68** ratify and approve payment warrants 77359 through 77597 totaling \$1,900,761.76.

3. CalPERS Contract Amendment Resolution of Intention and Disclosure of Costs for Fire Safety Members to Participate in the 75% Industrial Disability Benefit Program

A. By **RESOLUTION 11-69** adopts a Resolution of Intention to approve an amendment to the contract between the Board of Administration California Public Employees' Retirement System and City of Auburn providing Section 21428 (Increase Industrial Disability Allowance to 75% of Final Compensation) for local fire members.

B. By **RESOLUTION 11-70**, consistent with Government Code Section 7507, discloses the future annual employer costs for the increase in benefits by providing Section 21428 for local fire members to be 5.093% of local fire member pensionable income for firefighters hired prior to May 1, 2011, and 3.899% of local fire member pensionable income for firefighters hired on and after May 1, 2011.

4. Quarterly Report of Investments – Quarter Ending March 31, 2011

Receive, review and file the "City of Auburn Quarterly Investment Report" for the quarter ending March 31, 2011.

5. Auburn Employee's Association Memorandum of Understanding

By **RESOLUTION 11-71** adopt the Memorandum of Understanding between the Auburn Employees Association and the City of Auburn for the period July 1, 2011 through June 30, 2012 and authorize the City Manager to sign on behalf of the City.

6. **Employment Agreement for Interim Chief of Police**

By **RESOLUTION 11-72** authorize the City Manager to execute the attached Employment Agreement for Interim Chief of Police services.

7. **Groundwater Monitoring Well Destruction at the Auburn Municipal Airport**

By **RESOLUTION 11-73** authorize the Director of Public Works to execute Amendment No. 2 to the consultant contract with JJW Geosciences, Inc. for destruction of the groundwater monitoring wells at the Auburn Municipal Airport for an amount not to exceed \$12,986.

8. **Second Reading of an Ordinance to Extend the Expiration Date of Discretionary Entitlements Consistent with the Subdivision Map Act (Government Code Sections 66452.21 & 66452.22) – (Admin File 301.3(u))**

Hold a Second Reading, by Title Only, of an Ordinance Amending Various Sections of the Auburn Municipal Code to Extend the Expiration Date of Discretionary Entitlements Consistent with the Subdivision Map Act (Attachment 1).

***** End of Consent Calendar *****

By **MOTION**, approve the consent calendar.

MOTION: Nesbitt/ Powers/ Approved 5:0

9. **Public Comment**

Dennis Dean, resident of Sacramento County, spoke about the proposed city charter and his desire to have an open public exchange of ideas and points of view on the City's website.

City Attorney Michael Colantuono introduced Assistant City Attorney Michael Cobden. He gave a brief review of Mr. Cobden's professional background and indicated he will be filling in for him at the Council meeting during his vacation in July.

Council Member Holmes said an attorney out of Carmichael has been threatening local businesses with lawsuits alleging failure to comply with the Americans with Disabilities Act (ADA). He said he would like this issue looked into further and a list compiled of how many Auburn businesses are being impacted.

Council Member Nesbitt also spoke on the issue of the ADA suit threats. He said the tactic of the attorney in question is paramount to "extortion". He said the attorney is known to offer businesses a "settlement amount" to "forget the issue" and he encourages business owners who have been threatened in this manner to file a complaint with the State Bar of California. He said he appreciates legal action when there is a legitimate need or danger for people with disabilities, but that is not the case in these suits.

Council Member Hanley said he will forward information to the council regarding the emergency legislation introduced by Senator Bob Dutton to stop lawyers who are using the ADA to extort businesses.

Mayor Kirby said he agrees with the opinions of the other council members regarding these types of suits.

Council Member Powers said the Western States 100 run was held last weekend. She said thanked the community for their involvement and support.

REPORTS

10. City Council Committee Reports

Council Member Holmes reported as a member of the Arts Commission on the portion of steel recovered from the World Trade Center and sent to the city. He said it was taken to a local artist for recommendations for display.

Council Member Holmes reported on the Auburn State Recreation Area and the upcoming meeting with the Bureau of Reclamation.

Council Member Nesbitt said the Streetscape History and Art Advisory Committee (SHAAC) met and would like to consider fundraising to incorporate some of the elements from phase one into phase two. He said they are also finalizing ideas for the third interpretative sign remaining in phase one.

Council Member Nesbitt encouraged people to attend the Library Concert Series on Sunday evenings at the Library Amphitheater.

Mayor Kirby said Leadership Auburn should look into being involved in the creation of the third interpretative sign for Central Square.

Council Member Holmes updated the Council on both the temporary art program for Central Square and the permanent art being donated by the United Auburn Indian Community (UAIC).

Mayor Kirby reported on the upcoming "Movie Night" in Auburn.

PUBLIC HEARING

11. **2011/2012 Sewer Assessment to be placed on the Placer County Tax Roll**

Administrative Analyst Megan Siren introduced this item. She explained the public hearing process for the sewer service charges to be placed on the Placer County Tax Roll.

There was no public comment or council discussion.

By **RESOLUTION 11-74** authorize the levy of sewer service charges for Fiscal Year 2011/12 to be placed on the County of Placer Tax Roll.

MOTION: Holmes/ Powers/ Approved 5:0

12. **Public Hearing to Levy Annual Assessment Fee for Business Improvement Districts**

City Manager Robert Richardson introduced this item. He explained the process of conducting a public hearing and receiving public testimony regarding the 2011-12 Assessment Fees for the Business Improvement Districts.

Council Member Holmes confirmed there is no increase in the assessment fees.

There was no public comment.

By **RESOLUTION 11-75** adopt the 2011-12 Levying of Assessments in connection with the Old Town Auburn Business Improvement District and the Downtown Auburn Business Improvement District.

MOTION: Holmes/ Nesbitt/ Approved 5:0

COUNCIL BUSINESS

13. **Defensible Space Day in Auburn**

Council Member Hanley introduced this item. He said he would like July 9th, 2011 declared as "Defensible Space Day" in Auburn. He said this day serves as a reminder to residents of the importance of clearing dry brush,

wood, limbs, etc. away from their homes. He said brochures are available for homeowners to serve as a checklist. He said this day will coincide with "Project Canyon Safe".

Council Member Holmes said he is taking action on his property to clear defensible space.

Council Member Nesbitt thanked Council Member Hanley for all his efforts on the "Canyon Safe" project and keeping the subject of defensible space before the council and the public throughout the years.

Mayor Kirby also recognized Council Member Hanley for his work on this subject and said he appreciates the all the work done for the community by each of the council members.

By **MOTION** declare July 9, 2011 as "Defensible Space Day in Auburn."
MOTION: Powers/ Holmes/ Approved 5:0

14. **Pay for Performance Employment Agreement – John Ruffcorn**

City Manager Robert Richardson presented this item. He said he recommends Captain John Ruffcorn to be the next Chief of Police.

Council Member comments followed regarding support of this promotion.

By **RESOLUTION 11-76** adopt the attached employment agreement appointing John Ruffcorn as Police Chief effective June 30, 2011.
MOTION: Hanley/ Powers/ Approved 5:0

15. **Operating, Debt Service and Capital Projects Budget for Fiscal Year 2011-12**

Finance Director Andy Heath presented this item. He said the budget presented tonight is a balanced budget for the general fund and anticipates no use of reserve funds. He reviewed the preparation process/ general assumptions, City-wide Budget, General Fund Budget and other budget considerations and outstanding issues pertaining to the budget (full presentation available in City Clerks office).

Council Member Powers asked about the possible changes to the budget if state funds are eliminated.

City Manager Robert Richardson said city staff has a series of contingency plans based on possible scenarios. He said city staff is waiting on definitive action by the State to come back with recommendations, none of which involve using reserve funds.

Council Member Powers asked if there are future plans in the budget to put aside more reserve funds.

Andy Heath said this year's budget is balanced and he hopes in the future to get to the point where reserve funds can be increased.

Council Member Hanley asked staff: (1) eliminated funding in the draft of the state budget, (2) Placer County's increase in booking fees, (3) the School Park Preserve outstanding balance, and (4) the implementation of the biking master plan.

Council Member Holmes asked staff: (1) the determining factor in the estimate of a 3% reduction in property tax, (2) fees and membership dues paid to organizations that the city is a member of, (3) the current level of reserves compared to other comparable cities, and (4) reduction in leave balances.

Council Member Nesbitt asked about the increase in sales taxes due to the new department store opening this fiscal year.

Mayor Kirby asked staff: (1) how the property tax decline was estimated, (2) leave payouts, (3) personnel services costs, (4) pension costs, (5) health insurance costs, and (6) contingencies with state eliminated funding.

There was no public comment.

Council Member Nesbitt said he appreciates the efforts city-wide to help control costs. He congratulated staff for creating a balanced budget.

Council Member Holmes said he looks forward to updates to the budget in the coming year. He acknowledged Mr. Heath for his hard work on the budget.

Council Member Hanley acknowledged the importance of the reserve funds to the budget and maintaining a balanced budget. He said he feels the state will eliminate the redevelopment agency.

Mayor Kirby applauded past city councils that helped save the money in the reserve fund and the current council for maintaining a healthy balance. He recognized city employees for their hard work through this tough time. He said he appreciates a balanced budget that is also realistic.

A. By **RESOLUTION 11-77** adopt revenue estimates and expenditure appropriations for all City Funds for Fiscal Year 2011-12 as summarized

in the fund schedules presented with the Fiscal Year 2011-12 Proposed Budget.

B. By **RESOLUTION 11-78** establish a General Fund "cash reserve" in the amount of \$2,689,851 as summarized in the General Fund schedule presented with the Fiscal Year 2011-12 Proposed Budget.

MOTION: Holmes/ Nesbitt/ Approved 5:0

Council recessed for 5 minutes

16. **Review of City Operations – Fire Department**

Fire Chief Mark D'Ambrogi presented this item. He provided a general overview of the fire department including: (1) history, (2) daily response staffing, (3) fire stations, (4) apparatus, (5) response, (6) Cooperative County Response Plan, and (7) Work Schedules. He talked about the 2009 re-organization and the 2010 comprehensive review of the fire department. He went into detail on the fire department operations, training, fire prevention and administration. He explained inter-department operability city-wide. He discussed potential impacts to the fire department under a city charter. He talked about performance-based management and budget. He provided statistics and other figures (full presentation available in the City Clerks office).

Council Member questions followed: (1) "hook and ladder" organization, (2) building/fire inspections, (3) minimum certification requirements, (4) future expenditures, (5) Maidu Fire Station sign, (6) mutual aid agreement with Newcastle Fire, (7) structure of "Fire Commission" under a city charter, (8) state and federal training requirements, (9) weed abatement procedures, (10) courtesy routine inspections for the community/ commercial buildings, and (11) capital equipment purchases.

No public comment.

Council Member comments followed regarding city charter effects on the waiting period for weed abatements and performance-based management.

17. **Update of Solicitation Ordinance # 116 and Approval of "Aggressive Solicitation" Ordinance #121**

Police Chief Valerie Harris presented this item. She said this item was initially presented to council June 8, 2009 and now the public is asking that law enforcement "step up" and address their concerns with problems with aggressive solicitation. She said the current ordinance (chapter 116)

is too outdated to address the issue. She said the issue is primarily focused in the business districts. She discussed current complaints and responses related to aggressive panhandling in the City of Auburn. She explained the many services available for these individuals to get help. She is requesting chapter 121 be added to the municipal code relating to aggressive solicitations/panhandling. She said this ordinance prohibits solicitations that involve any of six circumstances in which no reasonable person would be willing to be subject to the solicitation: (1) fear of physical harm or property damage, (2) non-consensual touching; (3) interference or inhibition of a person or vehicle's free passage; (4) violent or threatening gestures; (5) persistent following, even after a solicitation has been declined; and (6) abusive language likely to provoke a violent reaction. She said this ordinance also prohibits solicitations in certain times and places in which no reasonable person would be willing to be subjected to a solicitation: (1) on public property within 15 feet of an ATM, or entrance to an ATM facility, bank, or check cashing business; (2) while in a right of way, approaching of a driver of a motor vehicle that is travelling (or stopped in traffic); and (3) in publicly owned or operated vehicles. (The full presentation is available in the City Clerks office).

Suzi deFosset, executive director of The Gathering Inn (local non-profit agency) spoke in favor of the proposed amendments. She said the homeless are offered services through her organization. She said panhandling enables negative behavior. She said homelessness is a community problem and it takes a community to solve the problem.

Council Member questions followed: (1) prohibited locations, (2) "homeless court", (3) public education and communication, (4) "cash back" from a grocery store, (5) enforcement, (6) Placer County involvement, and (7) "aggressive" solicitation.

City Attorney Michael Colantuono explained how and why the ordinance is drafted.

Police Chief Valerie Harris then explained the door to door solicitations. She is requesting chapter 116 of the municipal code be amended relating to solicitations. She said this is focused on residential areas.

Council Member Hanley asked about permits issued to individuals on probation or with a criminal history.

Police Chief Valerie Harris discussed fees and terms for soliciting permits. She would like the solicitor permit to be issued for a term of one year.

Council Member Nesbitt asked about possible fee rebate for non-profits groups.

Council Member Powers said she has concerns with the amendments to chapter 116. She said she wants to make sure non-profit groups continue to be able to easily fundraise for the community. She said she does not think they should have to pay the fee.

City Attorney Michael Colantuono said you could state by resolution the terms of fees for certain types of organizations.

By **MOTION** waive a full reading and introduce a first reading for an **ORDINANCE** amendment of chapter 116 relating to solicitations and bring resolution 93-38 related to solicitation fees to the next reading for possible revisions.

MOTION: Nesbitt/ Holmes/ Approved 5:0

Council Member comments followed regarding the problem of aggressive panhandling in the City of Auburn, education, and enforcement.

By **MOTION** waive a full reading and introduce a first reading to add **ORDINANCE** chapter 121 relating to aggressive solicitations (panhandling).

MOTION: Nesbitt/ Powers/ Approved 5:0

ADJOURNMENT

Mayor Kirby adjourned the meeting, without objection, at 10:19 p.m.

William W. Kirby, M.D., Mayor

Joseph G. R. Labrie, City Clerk

CITY COUNCIL MINUTES

July 1, 2011

SPECIAL SESSION

A Special Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Friday, July 1, 2011 at 5:00 p.m. with Mayor Kirby presiding and Deputy City Clerk Amy M. Lind recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: Bridget Powers, J. M. Holmes, Keith Nesbitt, Bill Kirby

Council Members Absent: Kevin Hanley

Staff Members Present: City Manager Robert Richardson

PUBLIC COMMENT

No public comment.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Nesbitt/ Powers/ Unanimously approved by voice

(1) **CONFERENCE WITH LABOR NEGOTIATORS**

Agency Designated Representatives: Robert Richardson

Employee Group: All Bargaining Units

REPORT OUT OF CLOSED SESSION

No reportable action.

ADJOURNMENT

Mayor Kirby adjourned the meeting, without objection, at 5:20 p.m.

William W. Kirby, M.D., Mayor

Amy M. Lind, Deputy City Clerk

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